



# Mental Welfare Commission for Scotland

2019/20 Annual Audit Report to the Board and the Auditor General for Scotland

November 2020



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# 1. Key messages

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## Annual accounts audit

The annual report and accounts were authorised for issue by the Board on 25 August 2020. Our independent auditor's report includes an unqualified opinion on the annual accounts, regularity and on other prescribed matters.

We specifically updated our risk assessment and audit plan in light of the COVID-19 pandemic and recognised this as a key audit risk. Our findings as they relate to this risk are documented under each section of this report.

Our thanks go to management and staff at the Commission for their assistance with our work.

## Wider scope audit

As outlined in our External Audit Plan, our annual audit work in respect of our wider scope audit responsibilities was restricted to:

- Audit work to allow conclusions to be made on the appropriateness of the disclosures in the Annual Governance Statement; and
- Consideration of the financial sustainability of the organisation and the services that it delivers over the medium and longer term.

Our conclusions and key observations are set out below:



### Governance statement

- We have reviewed the Annual Governance Statement and have found that it is consistent with the financial statements and has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers.
- The Commission has appropriate systems in place to record, process, summarise and report financial and other relevant data. We have not identified any significant weaknesses or governance issues in the Commission's accounting and internal control systems.
- The Commission has undergone a change in Chief Executive in 2019/20. The outgoing Chief Executive Colin McKay retired in February 2020. Executive Director (Nursing) Alison Thomson was appointed the interim Chief Executive before Julie Paterson took up the post of Chief Executive in August 2020.
- Covid-19 had a significant impact on the Commission's operations but it was able to adapt its governance arrangement to enable, for example, change in working environments. Board and other committee meetings have been able to continue without significant disruption.



### Financial sustainability

- The Commission has adequate arrangements in place for medium term financial planning. A three-year financial plan has been developed which incorporates the financial impact of the cessation of the National Confidential Forum in March 2021 and the completion of the Learning Disabilities and Autism Review.
- In March 2019 the Scottish Government announced a review of the Mental Health Act. The outcome of this review could result in strategic changes to the scale and scope of the Commission activities. As such the Commission has prepared its financial and business plans aligned to the timescales associated with this review.
- It is assumed within the financial plans that the Commission's core revenue resource allocation will remain at £4million until 2022/23. However, the Commission's financial plans note that there is some uncertainty due to political and economic conditions. The Commission has also assumed that the Scottish Government pay policy will continue. Based on these assumptions, the Commission forecast financial breakeven in 2020/21 and 2021/22 before a budget deficit in 2022/23.
- The Business Plan for 2020/21 has been updated to reflect the impact of Covid-19 on the organisation's activities. These changes have been considered to have little effect on the financial position of the Commission in 2020/21.

## Conclusion

This report concludes our audit for 2019/20. Our work has been performed in accordance with the Audit Scotland Code of Audit Practice, International Standards on Auditing (UK) and Ethical Standards.

**Azets**  
**November 2020**

# 2. Introduction

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**This report is presented to those charged with governance and the Auditor General for Scotland and concludes our audit of the Mental Welfare Commission for Scotland for 2019/20.**

**We carry out our audit in accordance with Audit Scotland’s Code of Audit Practice (May 2016). This report also fulfils the requirements of International Standards on Auditing (UK) 260: Communication with those charged with governance.**

**The Audit, Risk and Information Governance Committee has been designated as “those charged with governance”.**

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## Introduction

1. This report summarises the findings from our 2019/20 audit of the Mental Welfare Commission for Scotland (“the Commission”).
2. We outlined the scope of our audit in our External Audit Plan, which we presented to the Audit, Risk and Information Governance Committee at the outset of our audit. The core elements of our work include:
  - an audit of the 2019/20 annual report and accounts and related matters;
  - consideration of the Commission’s arrangements against the audit dimensions within the Code of Audit Practice (Exhibit 1); and
  - any other work requested by Audit Scotland.

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### Exhibit 1: Audit dimensions within the Code of Audit Practice



3. The Commission is responsible for preparing an annual report and accounts which show a true and fair view and for implementing appropriate internal control systems. The weaknesses or risks identified are only those that have come to our attention during our normal audit work, and may not be all that exist. Communication in this report of matters arising from the audit of the annual report and accounts or of risks or weaknesses does not absolve management from its responsibility to address the issues raised and to maintain an adequate system of control.
4. The report contains an action plan with specific recommendations, responsible officers and dates for implementation. Senior management should assess these recommendations and consider their wider implications before deciding on appropriate actions. We give each recommendation a grading to help the Commission assess their significance and prioritise the actions required.
5. We discussed and agreed the content of this report with the Head of Corporate Services. We would like to thank all management and staff for their co-operation and assistance during our audit.

### Confirmation of independence

6. International Standards on Auditing in the UK (ISAs (UK)) require us to communicate on a timely basis all facts and matters that may have a bearing on our independence.
7. We have complied with Financial Reporting Council’s (FRC) Ethical Standards. In our professional judgement, the audit process is independent and our objectivity has not been compromised in any way.
8. We set out in Appendix 1 our assessment and confirmation of independence.

### **Adding value through the audit**

9. All of our clients demand of us a positive contribution to meeting their ever-changing business needs. Our aim is to add value to the Commission through our external audit work by being constructive and forward looking, by identifying areas of improvement and by recommending and encouraging good practice. In this way, we aim to help the Commission promote improved standards of governance, better management and decision making and more effective use of resources.

### **Feedback**

10. Any comments you may have on the service we provide, the quality of our work and our reports would be greatly appreciated at any time. Comments can be reported directly to any member of your audit team.

### **Openness and transparency**

11. This report will be published on Audit Scotland's website [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk).

# 3. Annual report and accounts

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**The Commission’s annual report and accounts are the principal means of accounting for the stewardship of its resources and its performance in the use of those resources.**

**In this section we summarise the findings from our audit of the 2019/20 annual report and accounts.**

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## Annual report and accounts

### An unqualified audit opinion on the annual report and accounts

The annual report and accounts for the year ended 31 March 2020 were authorised for issue by the Commission’s Board on 25 August 2020. Our independent auditor’s report includes an unqualified opinion on the annual accounts, regularity and on other prescribed matters.

#### Overall conclusion

12. The annual report and accounts for the year ended 31 March 2020 were considered by the Audit, Risk and Information Governance Committee on 19 August 2020 and authorised for issue by the Commission’s Board on 25 August 2020. Our independent auditor’s report includes:

- An unqualified opinion on the financial statements;
- An unqualified opinion on regularity; and
- An unqualified opinion on other prescribed matters.

13. We are also satisfied that there were no matters which we are required to report by exception.

#### Our assessment of risks of material misstatement

14. The assessed risks of material misstatement described in the table below are those that had the greatest effect on our audit strategy, the allocation of resources in the audit and directing the efforts of the audit team. Our audit procedures relating to these matters were designed in the context of our audit of the annual report and accounts as a whole, and not to express an opinion on individual accounts or disclosures. Our opinion on the annual report and accounts is not modified with respect to any of the risks described below.

## Our assessment of risks of material misstatement and how the scope of our audit responded to those risks

### Management override

In any organisation, there exists a risk that management has the ability to process transactions or make adjustments to the financial records outside the normal financial control processes. Such issues could lead to a material misstatement in the financial statements. This is treated as a presumed risk area in accordance with ISA (UK) 240 - *The auditor’s responsibilities relating to fraud in an audit of financial statements*.

*Noted in the 2019/20 External Audit Plan*

15. We have not identified any indications of management override in the year. We have reviewed the Commission’s accounting records and obtained evidence to ensure that transactions outside the normal course of business were valid and accounted for correctly. We have also reviewed management estimates and the journal entries processed in the period and around the year end. We did not identify any areas of bias in key judgements made by management and judgements were consistent with prior years.
16. As part of our audit work however we have noted that the authorisation of journals has not been consistently documented in year. We understand that the Finance Manager reviews journals as part of the month end reporting process. Through our testing we have gained reasonable assurance that no improper journals are being posted. Segregation of duties is in place and no journals have been posted by the Finance Manager. The journals which are

posted are routine in nature and low risk. However, ensuring documentation of review would provide a clear audit trail.

**Action plan point 1**

## Revenue recognition

Under ISA (UK) 240- *The auditor's responsibilities relating to fraud in an audit of financial statements* there is a presumed risk of fraud in relation to revenue recognition. The presumption is that the Commission could adopt accounting policies or recognise revenue transactions in such a way as to lead to a material misstatement in the reported financial position.

*Noted in the 2019/20 External Audit Plan*

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17. At the planning stage of our audit we concluded that the risk of fraud in revenue recognition was not present in the annual accounts and we therefore rebutted this risk. The Commission does not undertake any income generating activities; funding from the Scottish Government is its only source of income. This position has been reviewed throughout the audit and our conclusion has remained appropriate.

## Risk of fraud in the recognition of expenditure

Practice Note 10 - *The Audit of Public Sector Financial Statements* recognises that most public sector bodies are net spending bodies and notes that there is an increased risk of material misstatement due to improper recognition of expenditure.

*Noted in the 2019/20 External Audit Plan*

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18. We have evaluated each type of expenditure transaction and documented our conclusions. We have gained reasonable assurance on the completeness and occurrence of expenditure and are satisfied that expenditure is fairly stated in the annual accounts. To inform our conclusion, we carried out testing to confirm that Commission's policy for recognising expenditure is appropriate and has been applied consistently throughout the year.

## Update to our initial risk assessment

19. Planning is a continuous process and our audit plans are updated during the course of our audit to take account of developments as they arise. We have specifically updated our risk assessment and audit plan in light of COVID-19. We recognised this as a key audit risk<sup>1</sup>.

### COVID-19

The COVID-19 pandemic is presenting unprecedented challenges to the operation, financial management and governance of organisations, including public sector bodies. Core areas of service delivery have been suspended or substantially reduced, systems and processes have been amended to support remote working, arrangements for governance, decision making and performance management have been adapted, and many organisations are forecasting large operating deficits due to loss of income and/ or additional cost pressures. It is uncertain how long these challenges will persist.

The implications of these risks and uncertainties are under consideration by the Commission, the health sector and the Scottish Government. We continue to monitor government and relevant announcements as they pertain to the audit and have adapted our audit approach as required.

20. In response to this risk we identified potential areas where there was the risk of material misstatement to the financial statements and/or our audit opinion. These areas included:

- Content of the annual report and accounts
- Access to audit evidence

### Content of the annual report and accounts

21. In May 2020, HM Treasury issued an addendum to the Government Financial Reporting Manual (FRM) which covered the following:
- The addendum permits, but does not require, bodies to omit the performance analysis section from the Performance Report. Where relevant performance information has already been published elsewhere, bodies are encouraged to refer to the relevant publication.
  - Where unaudited information otherwise required to be included in the Accountability Report is already published elsewhere, bodies are permitted to refer to the relevant publication rather than including the information in their Accountability Report.
22. The Commission took the decision to apply the addendum to the FRM and include links to its key performance indicators as published on its website

in the performance analysis section of the Performance Report.

### Access to audit evidence

23. Our audit this year has been carried out remotely. As a consequence, we identified a risk that access to and provision of sufficient, appropriate audit evidence in support of our audit opinion may be impacted by the inherent nature of carrying out our audit remotely.
24. We have employed a greater use of technology to examine evidence, but only where we have assessed both the sufficiency and appropriateness of the audit evidence produced.
25. We are pleased to report we received all audit evidence requested to allow us to form our audit opinion. Our thanks go to staff at the Commission for their assistance with our work.

### An overview of the scope of our audit

26. The scope of our audit was detailed in our External Audit Plan, which was presented to the Audit, Risk and Information Governance Committee in February 2020. The plan explained that we follow a risk-based approach to audit planning that reflects our overall assessment of the relevant risks that apply to the Commission. This ensures that our audit focuses on the areas of highest risk. Planning

<sup>1</sup> A key audit risk is one which may result in a material misstatement to the financial statements or significantly impact on our audit judgements and conclusions on the four wider scope

dimensions; financial sustainability, financial management, governance and transparency and value for money.

is a continuous process and our audit plan is subject to review during the course of the audit to take account of developments that arise.

27. At the planning stage we identified the significant risks that had the greatest effect on our audit. Audit procedures were then designed to mitigate these risks.
28. Our standard audit approach is based on performing a review of the key financial systems in place, substantive tests and detailed analytical procedures. Tailored audit procedures, including those designed to address significant risks, were completed by the audit fieldwork team and the results were reviewed by the audit management team. In performing our work we have applied the concept of materiality, which is explained below.

### Our application of materiality

29. Materiality is an expression of the relative significance of a matter in the context of the financial statements as a whole. A matter is material if its omission or misstatement would reasonably influence the decisions of an addressee of the auditor's report. The assessment of what is material is a matter of professional judgement over both the amount and the nature of the misstatement. We review our assessment of materiality throughout the audit.
30. Performance materiality is the working level of materiality used throughout the audit. We use performance materiality to determine the nature, timing and extent of audit procedures carried out. We perform audit procedures on all transactions, or groups of transactions, and balances that exceed our performance materiality. This means that we perform a greater level of testing on the areas deemed to be at significant risk of material misstatement.
31. Performance materiality is set at a value less than overall materiality for the financial statements as a whole to reduce to an appropriately low level the probability that the aggregate of the uncorrected and undetected misstatements exceed overall materiality.
32. Our initial assessment of materiality for the financial statements was £77,550. On receipt of the 2019/20 draft accounts, we reassessed materiality and kept it at £77,550. We consider that our updated assessment has remained appropriate throughout our audit.

### Materiality £

Overall materiality: Our assessment is made with reference to the Commission's Revenue Resource Limit (RRL). Achieving a breakeven position against RRL is a key target for the Commission and one of the principal considerations for the users of the financial statements when assessing financial performance.	77,550
Performance materiality: using our professional judgement we have calculated performance materiality at approximately 75% of overall materiality.	58,000

33. We noted within our External Audit Plan that we would report on all audit differences in excess of 5% of the overall materiality figure, as well as differences below that threshold which, in our view, warranted reporting on qualitative grounds. We also report on disclosure matters that we identify when assessing the overall presentation of the financial statements.

### Audit differences

34. We noted an audit adjustment being the reallocation of £107,000 from Trade & Other Creditors to Provisions relating to the closure of NCF. In the Remuneration Report we noted that one individual had been omitted.
35. We also identified some disclosure and presentational adjustments during our audit, which have been reflected in the final set of accounts.
36. We have not identified any unadjusted differences to the annual accounts.

### Board representations

37. We have requested that a signed representation letter be presented to us at the date of signing the annual report and accounts. This letter is to be signed by the Accountable Officer on behalf of the Commission.

### Other matters identified during our audit

38. During the course of our audit we noted the following:

### Other information in the annual report and accounts

39. "Other information" in the annual report and accounts comprises any information other than the financial statements and our independent auditor's

report. We do not express any form of assurance conclusion on the “other information” except as specifically stated below.

### The performance report

40. The performance report provides information on the entity, its main objectives and strategies and the principal risks that it faces. It comprises an overview of the organisation and a detailed summary of how the entity measures performance.
41. We have concluded that the performance report has been prepared in accordance with directions from Scottish Ministers and is consistent with the financial statements.

### The accountability report

42. The accountability report is required in order to meet key parliamentary accountability requirements and comprises three sections: a corporate governance report (including the governance statement), a remuneration and staff report; and a parliamentary accountability report. Our audit opinion specifically refers to the governance statement and the audited part of the remuneration and staff report.

### Governance statement

43. We consider the coverage of the governance statement to be in line with our expectations.
44. Based on the audit work carried out, we have concluded that the governance statement has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions from Scottish Ministers and is consistent with the financial statements.

### Remuneration and staff report

45. Based on the audit work carried out, we noted that an Interim Director had been omitted from the Remuneration report. The Director in question had been appointed in March 2020. The annual accounts have subsequently been amended.
46. We have concluded that the audited part of the remuneration and staff report has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions from Scottish Ministers.

### Internal audit

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47. The Commission’s internal audit function is provided by TIAA. We have taken cognisance of the work of internal audit in forming our opinion on the appropriateness of the disclosures in the annual governance statement.

### Regularity

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48. We have planned and performed our audit recognising that non-compliance with statute or regulations may materially impact on the annual report and accounts. We did not identify any instances of irregular activity.
49. In our opinion in all material respects the expenditure and income in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers.

### Future of the NCF

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50. The NCF was originally established in 2014/15 for a three to five year period. The Commission presented an options appraisal paper to the Scottish Government in March 2017 outlining the possibilities for the future of the NCF, and Scottish Government officials met with the Board in February 2018 to discuss the future of the NCF. The Scottish Government has confirmed that the Forum will cease in March 2021 and this repeal will be part of the Redress Bill commencing in 2020.
51. In the 2019/20 annual report and accounts, a provision has been created (£107,000) for the cessation of NCF in March 2021. This had been originally included as an accrual but due to the uncertainty in timing and amounts of payments has been subject to an audit adjustment to move the balance into provisions.
52. We have reviewed the disclosures in the annual accounts and concluded that appropriate disclosures have been made.

### Accounting systems and internal controls

53. During the course of our audit of the financial statements, we examine the principal internal controls which the Commission have established to enable them to ensure, as far as possible, the accuracy and reliability of the Commission’s accounting records and to safeguard the Commission’s assets.

- 54. It should be noted that our audit was planned and performed in order to allow us to provide an opinion on the financial statements and it should not be relied upon to reveal all errors and weaknesses that may exist.
- 55. We are pleased to report we have not identified any significant system weaknesses.

### Shared systems and functions

- 56. The Commission uses the Scottish Government payroll services and accounting systems (SEAS). On an annual basis, Audit Scotland, the appointed auditor to the Scottish Government shares with us their findings on work carried out on those systems. The overall conclusion as that, other than for Payroll, the Scottish Government’s systems of internal control operate effectively. We have completed sufficient substantive testing to gain assurance that the Commission’s payroll costs are free from material misstatement in the financial statements.

### Follow up of prior year recommendations

- 57. As part of our audit we have followed up the agreed audit recommendations from prior years which were yet to be implemented. The table below indicates that four recommendations have been actioned and one recommendation has yet to be fully implemented. One action has been marked as no longer applicable as NCF has a set closure date of March 2021. Further detail on these recommendations is included in the action plan at Appendix 2.

Number of recommendations raised in 2018/19	Complete	Partially complete	No longer applicable
6	4	1	1

### Prevention and detection of fraud and irregularity

- 58. Our audit was planned to provide a reasonable expectation of detecting material misstatements in the financial statements resulting from fraud and irregularity. We found the Commission’s arrangements for the prevention and detection of fraud and other irregularities to be adequate.

### Qualitative aspects of accounting practices and financial reporting

- 59. During the course of our audit, we consider the qualitative aspects of the financial reporting process, including items that have a significant impact on the relevance, reliability, comparability, understandability and materiality of the information provided by the financial statements. The following observations have been made:

Qualitative aspect considered	Audit conclusion
The appropriateness of the accounting policies used.	The accounting policies, which are disclosed in the annual accounts, are in line with the NHS Accounts Manual and are considered appropriate.
The timing of the transactions and the period in which they are recorded.	We did not identify any concerns over the timing of transactions or the period in which they were recognised.
The appropriateness of the accounting estimates and judgements used.	We are satisfied with the appropriateness of the accounting estimates and judgements used in the preparation of the annual accounts. Significant estimates have been made in relation to the valuation of liabilities related to the Commission’s membership of the Clinical Negligence and Other Risks Indemnity Scheme (CNORIS). These estimates have been informed by advice from qualified, independent experts. We evaluated the competence, objectivity and capability of management experts in line with the requirements of ISA (UK) 500 and concluded that use of the experts was appropriate.
The appropriateness of the going concern assumption	We have reviewed the financial forecasts for 2020/21. Our understanding of the legislative framework and activities undertaken provides us with sufficient assurance that the Commission will continue to operate for at least 12 months from the signing date.
The potential effect on the annual accounts of any uncertainties, including significant risks and related disclosures that are required.	We have not identified any uncertainties, including any significant risk or required disclosures, which are not already included in the annual accounts.
The extent to which the annual accounts have been affected by unusual transactions during the period and the extent that these transactions are separately disclosed.	From the testing performed, we identified no significant unusual transactions in the period.
Apparent misstatements in the annual report or material inconsistencies with the financial statements.	The annual report contains no material misstatements or inconsistencies with the financial statements.
Any significant annual accounts disclosures to bring to your attention.	There are no significant annual accounts disclosures that we consider should be brought to your attention. All the disclosures required by relevant legislation and applicable accounting standards have been made appropriately.
Disagreement over any accounting treatment or annual accounts disclosure.	While disclosure and presentational adjustments were made during the audit there was no material disagreement during the course of the audit over any accounting treatment or disclosure.
Difficulties encountered in the audit.	There were no significant difficulties encountered during the audit.

# 4. Wider scope

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Following consideration of the size, nature and risks of the Commission, the application of the full wider scope audit is judged by us not to be appropriate. Our annual audit work on the wider scope has therefore been restricted to:

- Audit work to allow conclusions to be made on the appropriateness of the disclosures in the governance statement; and
  - Consideration of the financial sustainability of the organisation and the services that it delivers over the medium and longer term.
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## Wider scope conclusions

### Governance statement



We have reviewed the Annual Governance Statement and have found that it is consistent with the financial statements and has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers.

The Commission has appropriate systems in place to record, process, summarise and report financial and other relevant data. We have not identified any significant weaknesses or governance issues in the Commission's accounting and internal control systems.

The Commission has undergone a change in Chief Executive in 2019/20. The outgoing Chief Executive Colin McKay retired in February 2020. Executive Director (Nursing) Alison Thomson was appointed the interim Chief Executive before Julie Paterson took up the post of Chief Executive in August 2020.

Covid-19 had a significant impact on the Commission's operations but it was able to adapt its governance arrangement to enable, for example, change in working environments. Board and other committee meetings have been able to continue without significant disruption.

### Financial sustainability



The Commission has adequate arrangements in place for medium term financial planning. A three-year financial plan has been developed which incorporates the financial impact of the cessation of the National Confidential Forum in March 2021 and the completion of the Learning Disabilities and Autism Review.

In March 2019 the Scottish Government announced a review of the Mental Health Act. The outcome of this review could result in strategic changes to the scale and scope of the Commission activities. As such the Commission has prepared its financial and business plans aligned to the timescales associated with this review.

It is assumed within the financial plans that the Commission's core revenue resource allocation will remain at £4million until 2022/23. However, the Commission's financial plans note that there is some uncertainty due to political and economic conditions. The Commission has also assumed that the Scottish Government pay policy will continue. Based on these assumptions, the Commission forecast financial breakeven in 2020/21 and 2021/22 before a budget deficit in 2022/23.

The Business Plan for 2020/21 has been updated to reflect the impact of Covid-19 on the organisation's activities. These changes have been considered to have little effect on the financial position of the Commission in 20/21

### Our approach to the wider scope audit

60. Our approach to the wider scope audit (as set out in our 2019/20 External Audit Plan) builds upon our understanding of the Commission which we developed from previous years, along with discussions with management and review of committee minutes and key strategy documents.

61. Our annual audit work on the wider scope is restricted to:

- Audit work to allow conclusions to be made on the appropriateness of the disclosures in the governance statement; and
- Consideration of the financial sustainability of the organisation and the services that it delivers over the medium and longer term.



## Governance statement

**Our audit work includes consideration of the appropriateness of the disclosures in the governance statement.**

62. We have concluded that the governance statement has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions from Scottish Ministers and is consistent with the financial statements.
63. From our audit work performed we concluded that the Commission has appropriate systems in place to record, process, summarise and report financial and other relevant data. We have not identified any significant weaknesses or governance issues in the Commission's accounting and internal control systems.
64. In February 2020, the Chief Executive Colin McKay retired and Alison Thomson was appointed interim Chief Executive. In August 2020, Julie Paterson took up the post of Chief Executive. In this capacity, she has taken on the role of Accountable Officer in signing the 2019/20 annual report and accounts.
65. The Accountable Officer has confirmed that in their opinion, the control arrangements are appropriate and effective, and no significant issues have been identified. This opinion has been informed by an interim Governance Statement presented to the Board in February 2020 by the then Chief Executive, Colin McKay, prior to his departure. Additional assurances were received by the Accountable Officer from the Interim Chief Executive via handover meetings in August 2020.
66. The Head of the Forum is required to provide the Commission's Accountable Officer with assurances which inform the governance statement. Jayne Laidlaw was appointed to Head of the Forum in May 2019 and has produced a Governance Statement for NCF for 2019/20. All significant issues noted as part of the Statement have been incorporated into the Commission's Statement.
67. The Governance Statement incorporates the changes in operations including the future cessation of NCF in March 2021 and completion of the Learning Disabilities and Autism Review.

### **Impact on governance arrangements due to COVID-19**

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68. Covid-19 and the associated changes to working conditions have had a serious impact on the organisation. The Commission has disclosed this in

the Governance Statement and updated its Business Plan objectives. Staff were able to move to working from home and governance meetings were moved online.

69. While the Commission still reserved the right to make visits to patients to ensure their care was appropriate, visits stopped between April and August 2020. This has resulted in an increased focus on producing advice such as good practice guides for practitioners or on potential emergency legislation relating to Covid-19. We understand that visits to patients are now resuming with appropriate risk assessments and safety measures in place.



**Financial sustainability**  
Financial sustainability looks forward to the medium and longer term to consider whether the Commission is planning effectively to continue to deliver its services or the way in which they should be delivered.

## Significant audit risk

70. Our audit plan identified a significant risk in relation to financial sustainability under our wider scope responsibilities.

### Financial sustainability

The Commission prepares a three year financial plan which is updated on an annual basis. The financial plans are based on the following assumptions:

- All established posts are filled for a complete financial year;
- An annual increase of 3% in pay awards and the Scottish Government policy of no compulsory redundancies is maintained;
- Second Opinion fees and associated travel costs are capped at £418,000;
- The Commission's annual core budget remains at current year levels;
- The accommodation project resulted in a reduction in accommodation charges; and
- Annual IT costs increase as required by required technology refreshes

The Commission establishment budget shows funding shortfalls in future years based on current assumptions.

The achievement of future financial targets will depend on continuing tight control of expenditure.

*Noted in the 2019/20 External Audit Plan*

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71. The Commission has developed three year financial plan for the period 2020/21 to 2022/23. This is in line with the Commission's strategic business planning cycle.
72. In March 2019 the Scottish Government announced a review of the Mental Health Act. The outcome of this review could result in strategic changes to the scale and scope of the Commission activities. As such the Commission has prepared its financial and strategic business plans aligned to the timescales associated with this review.
73. While we encourage the Commission to continue to consider whether longer term financial plans could be developed in the future, we understand that this is not considered to be appropriate at this time.
74. The Business Plan for 2020/21 has been updated to reflect the impact of Covid-19 on the organisation's activities. These changes have been considered to have little effect on the financial position of the Commission in 2020/21. One area of concern however is the short term authorisation of second opinion certificates (T3s) performed remotely during lockdown which could have an impact in 2020/21 and will have an impact in 2021/22. Scottish Government are aware of this concern.
75. The financial plan assumes a flat rate budget of £4million as was originally allocated for 2019/20 along with additional funding for other reviews undertaken by the Commission. The Commission's allocation for 2019/20 was reduced in July 2020 to £3.869million for core activities based on updated forecasts provided to SG Health Finance prior to the year end. This

underspend was primarily due to the late notification of the budget in June 2019 and delayed recruitment of posts. Therefore, the Commission's allocation for 2020/21 has been confirmed as remaining at the higher level of £4million plus additional funding for NCF and ongoing reviews.

76. Under these assumptions financial break even in 2020/21 and 2021/22 is forecast, with the Commission set to show a deficit in 2022/23. The Commission is unable to utilise former surpluses to achieve a breakeven position.
77. We note that in 2019/20, only 80% of the Commission's annual expenditure on core activities related to staff costs. While this is primarily due to staff vacancies, we understand that this trend has also been noted as continuing into 2020/21. We understand that the Commission has interim measures in place to ensure that the staff vacancies are not to the detriment of services.

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## Indicative 2020/21 budgets

78. The Scottish Government confirmed the Commission's resource budget for 2020/21 in June 2020. The resource budget for 2020/21 is £4million for the Commission's core activities and £192,000 in respect of the costs of the work on the new reviews for the investigation of deaths in detention and homicide. No capital allocation has been awarded at this time.
79. The Scottish Government has also indicated that NCF's resource budget for 2020/21 will be £985,000.
80. This represents an overall increase in the total Revenue Resource allocation from £4.885million per the final budget allocation for 2019/20 to £5.177million for 2020/21. The allocation is consistent with the 3 year financial plans.
81. As noted above, the main driver of increased spend relates to the Scottish Government's Pay Policy. This may result in a 3% pay rise for the majority of the Commission's staff but this is not likely to be confirmed until January 2021 when the Scottish Government's budget is announced
82. The Scottish Government had previously agreed that any expenditure on second opinions over and an agreed cap would be separately funded. This agreement ended on 31<sup>st</sup> March 2020. The Commission has requested that this arrangement continues. Discussions with Scottish Government are ongoing and confirmation is still awaited.

## Long term financial planning

83. As part of the Commission's financial planning process, a three year establishment budget was prepared covering 2020/21 to 2022/23.

84. While we encourage the Commission to continue to consider whether longer term financial plans could be developed in the future, we understand that this is not considered to be appropriate at this time.
85. The Commission staff establishment budget shows funding underspends for 2020/21 and 2021/22. This was due to the ongoing work on a skill mix review with funding identified for new posts shown in the overall budget based on current assumptions. The staff establishment budget will be updated in 2020/21 to reflect these new posts. However, we have noted that the trends in 2019/20 deviate from the assumption that all established posts are filled for a complete financial year. These trends, if continued into 2020/21, could result in a change to the forecast underspend.

## Review of the Mental Health Act and related reviews into quality of care received

86. The Scott Review of the Mental Health Act has been in progress in 2019/20. The review was set up in May 2019 to examine the rights and protections for people with mental health conditions, along with how to remove barriers to those caring for their health and welfare.
87. The Commission has assessed this review to have potential impact on the scale and scope of the organisation going forward. It has contributed to the consultation appeal issued by the Scott Review in February, despite challenges faced due to disruption from Covid-19.
88. Two other significant reviews in progress in 2019/20 were the review of care at NHS Tayside and the judicial review into treatment provided by NHS Greater Glasgow and Clyde. We understand that recommendations from these reviews are being

considered at a national level but have been delayed due to Covid-19.

## The Commission's performance in 2019/20

89. The main financial objective for the Commission is to ensure the financial outturn for the year is within the revenue resource limit. The Commission's performance against this financial target has been set out in the table below.

### Performance against resource limits

Financial target	Limit £000	Actual £000	Variance £000	Target achieved?
<b>Core revenue resource limit</b>				
Mental Welfare Commission	3,869	3,807	62	Yes
National Confidential Forum	775	649	126	Yes
Learning and Disability and Autism review	153	160	(7)	No
The Reviews of Deaths in Detention and Mental Health Homicide	88	58	30	Yes
<b>Non-core revenue resource</b>	<b>60</b>	<b>58</b>	<b>2</b>	<b>Yes</b>

90. The Commission achieved a saving against its core revenue resource limit of £62,000 and a saving against its non-core revenue resource limit of £2,000. As noted above, the saving against its core revenue resource limit has been primarily driven by staff vacancies. The Commission has also achieved savings in relation to its accommodation as a result of its 2018/19 accommodation project. However, it has also faced a significant increase in legal costs due to its involvement in the NHS Greater Glasgow and Clyde judicial review.

91. The National Confidential Forum (NCF) reported a saving of £126,000 against a revised revenue resource allocation of £775,000. The underspend was driven by a decrease in the number of hearings held by the Forum in line with demand. Staff vacancies also contributed to the underspend.

92. Included in the NCF outturn is £107,000 which relates to a provision for the closure of NCF which is due to take place in March 2021. This incorporates necessary expenditure which will be incurred by NCF due to the decision to cease activities including onerous lease costs and redundancy packages.

93. The Review of the Mental Health (Care and Treatment) (Scotland) Act 2003 for people with Learning Disability and Autism review concluded in 2019/20. The review was overspent by £7,000 against an allocation of £153,000 in part due to a late increase in costs to send out the final report resulting from Covid-19. However, we note as context to this overspend that review was underspent by £45,000 in 2018/19.

94. Deaths in Detention review was underspent by £30,000 against a revised allocation of £88,000 due to the later than anticipated appointment of the Head of the Review. The review has received funding into 2020/21 with work ongoing in this area.

# 5. Appendices

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## Appendix 1: Respective responsibilities of the Commission and the Auditor

### Responsibility for the preparation of the annual report and accounts

It is the responsibility of the Commission and the Chief Executive, as Accountable Officer, to prepare financial statements in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder.

#### In preparing the annual report and accounts, the Commission and the Chief Executive, as Accountable Officer are required to:

- apply on a consistent basis the accounting policies and standards approved for the NHS Scotland by Scottish Ministers;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Financial Reporting Manual have not been followed where the effect of the departure is material;
- prepare the accounts on a going concern basis unless it is inappropriate to presume that the Commission will continue to operate; and
- ensure the regularity of expenditure and income.

#### Board members are also responsible for:

- keeping proper accounting records which are up to date; and
- taking reasonable steps for the prevention and detection of fraud and other irregularities.

### Auditor responsibilities

#### We audit the annual report and accounts and give an opinion on whether:

- they give a true and fair view in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers of the state of the Commission's affairs as at 31 March 2020 and of the net expenditure for the year then ended;
- they have been properly prepared in accordance with IFRSs as adopted by the European Union, as interpreted and adapted by the 2019/20 FReM;
- they have been prepared in accordance with the requirements of the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers;
- the use of the going concern basis of accounting in the preparation of the financial statements is not appropriate or the board has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about its ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue;
- in all material respects the expenditure and income in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers;
- the auditable part of the Remuneration and Staff Report has been properly prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers; and
- the information given in the Performance Report is consistent with the financial statements and has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers; and
- the information given in the Governance Statement is consistent with the financial statements and has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers.

### **We are also required to report, if in our opinion:**

- adequate accounting records have not been kept; or
- the financial statements and the part of the Remuneration and Staff Report to be audited are not in agreement with accounting records; or
- we have not received all the information and explanations we require for our audit; or
- there has been a failure to achieve a prescribed financial objective.

### **Wider scope of audit**

The special accountabilities that attach to the conduct of public business, and the use of public money, mean that public sector audits must be planned and undertaken from a wider perspective than in the private sector. This means providing assurance, not only on the financial statements, but providing audit judgements and conclusions on the appropriateness, effectiveness and impact of corporate governance and performance management arrangements and financial sustainability.

The Code of Audit Practice frames a significant part of our wider scope responsibilities in terms of four audit dimensions: financial sustainability; financial management; governance and transparency; and value for money.

We have concluded that the full application is not appropriate due to the size of the organisation. As part of our annual audit we consider and report against:

- appropriateness of the disclosures in the governance statement; and
- financial sustainability of the body and the services that it delivers over the medium to longer term.

### **Independence**

International Standard on Auditing (UK) 260 "Communication with those charged with governance" requires us to communicate on a timely basis all facts and matters that may have a bearing on our independence.

#### **Confirmation of independence**

We confirm that we have complied with the FRC's Ethical Standards. In our professional judgement, the audit process is independent and our objectivity has not been compromised in any way. In particular there are and have been no relationships between Azets and the Commission, its Board members and senior management that may reasonably be thought to bear on our objectivity and independence.

## Appendix 2: Action plan

Our action plan details the weaknesses and opportunities for improvement that we have identified during our audit.

### Action plan grading structure

To assist the Commission in assessing the significance of the issues raised and prioritising the action required to address them, the recommendations have been rated.

The rating structure is summarised as follows:

Grade	Explanation
<b>Grade 5</b>	Very high risk exposure - Major concerns requiring immediate attention.
<b>Grade 4</b>	High risk exposure - Material observations requiring management attention.
<b>Grade 3</b>	Moderate risk exposure - Significant observations requiring management attention.
<b>Grade 2</b>	Limited risk exposure - Minor observations requiring management attention
<b>Grade 1</b>	Efficiency / housekeeping point.

## Current year action plan

Action plan point	Issue & recommendation	Management comments
1. Documentation of authorisation of journals	As part of our journals testing, we have noted that the authorisation of journals has not been consistently documented in year.	Journals will be initialled and dated electronically on review by the Finance manager. It is unlikely that we will return to storing paper copies of journals in the future.
Rating	We understand that the Finance Manager reviews journals as part of the month end reporting process. Through our testing we have gained reasonable assurance that no improper journals are being posted. Segregation of duties is in place and no journals have been posted by the Finance Manager.	<b>Responsible officer:</b> Finance Manager
Grade 3		<b>Implementation date:</b> With immediate effect.
Paragraph Ref		
16	The journals which are posted are routine in nature and low risk. However, ensuring documentation of review would provide a clear audit trail.	

## Follow up of prior year recommendations

### 1. Payroll SLA

Initial rating	Issue & recommendation	Prior year/s management comments
<b>Grade 3</b>	<p>Calculation errors were made in 2018/19 by Payroll Shared Services. Management have expressed concerns as they do not get to review the payroll before it is processed. Therefore, errors are being identified retrospectively using detective controls.</p> <p>We noted that there is currently no formalised service level agreement (SLA) in place between the Commission and Payroll Shared Services. We would encourage the Commission to establish this SLA which could incorporate controls to prevent similar errors happening in the future.</p>	<p><b>2018/19 management comments</b></p> <p>We will instigate discussions with SG about an SLA. We have tried to get an SLA previously without success</p> <p><b>Responsible officer:</b> Finance Manager  <b>Implementation date:</b> December 2019</p>
Current status	Management response	
<b>Complete</b>	Discussions took place the Scottish Government over obtaining an SLA but we were informed that this was not possible	

## 2. Medium term financial framework

Initial rating	Issue & recommendation	Prior year/s management comments
<p><b>Grade 3</b></p>	<p>In October 2018, the Scottish Government published its Health and Social Care Medium Term Financial Framework. The framework sets out a new planning and performance cycle which requires NHS Boards to deliver financial break-even over a three year period. Where this requirement is met, Boards have the flexibility to report under or overspends of up to 1% of the Boards' core revenue resource funding.</p> <p>While the Commission applies certain provisions of the NHS (Scotland) Act 1978 with regard to its annual accounts, it does have a different sponsor department within the Scottish Government (the Mental Health Directorate rather than the Scottish Government Health and Social Care Services Directorate). As such it is not clear whether the provisions set out in the framework above apply to the Commission. We would encourage the Commission to discuss this with its sponsor department.</p>	<p><b>2018/19 management comments</b></p> <p>We will discuss with sponsor department Responsible officer: Head of Corporate Services</p> <p><b>Implementation date:</b> June 2019</p>
Current status	Management response	
<p><b>Complete</b></p>	<p>We discussed with SG finance team in November 2019 and were informed that this provision did not apply to the Commission as the Commission's funding is not provided in the same way as NHS funding</p>	

### 3. Financial planning for NCF

Initial rating	Issue & recommendation	Prior year/s management comments
<b>Grade 3</b>	The Commission has received confirmation from the Scottish Government that the NCF will be continuing for at least the next two years (2019/20 onwards). As there is now certainty over the future of NCF, medium term financial forecasts should also be developed.	<p><b>2018/19 management comments</b></p> <p>There will be a mid- year review of the 2019/20 NCF budget which will also include 2020/21 forecast</p> <p><b>Responsible officer:</b> NCF Manager and Finance Manager</p> <p><b>Implementation date:</b> October 2019</p>
Current status	Management response	
<b>N/A</b>	No longer applicable: NCF will cease on 31 March 2021.	

### 4. Asset register

Initial rating	Issue & recommendation	Prior year/s management comments
<b>Grade 3</b>	<p>In 2016/17, we noted that the Commission’s property, plant and equipment (non-current assets) had all been fully depreciated leaving a nil balance on the balance sheet. This is also the position as at 31 March 2018.</p> <p>As these assets are still in use it would appear unreasonable for them to be fully depreciated and would suggest that the estimated useful life applied is inaccurate.</p> <p>We would encourage the Commission to review its asset register and write off any assets no longer in use and re-assess the useful life of those assets still in use but fully depreciated.</p>	<p><b>2017/18 management comments</b></p> <p>Agreed</p> <p><b>Responsible officer:</b> Finance Manager <b>Implementation date:</b> 30 September 2018</p> <p><b>2018/19 management comments</b></p> <p>This is partially completed. We have reviewed all of the assets. We need now to action through SEAS ledger</p> <p>A report of this will be presented to the Audit, Risk and Information Governance committee in November 2019</p> <p><b>Responsible officer:</b> Finance Manager <b>Implementation date:</b> October 2019</p>
Current status	Management response	
<b>Partially complete</b>	Progress has been made in identifying assets but the asset register and ledger have not been updated with any amendments. A report was presented to the A.R & IG Committee and we were ready to do this prior to lockdown but we have delayed into the current year following issues with remote access to SEAS	

## 5. Review of accounting policies

Initial rating	Issue & recommendation	Management comments
<b>Grade 2</b>	During the audit, we identified a number of accounting policies included in the annual accounts which are not applicable to the Commission. Therefore, we recommend that the Commission complete a full review of the accounting policies to ensure that all policies included in the accounts are relevant and useful to the users of the accounts.	<p><b>2017/18 management comments</b></p> <p>Agreed</p> <p><b>Responsible officer:</b> Finance Manager <b>Implementation date:</b> 30 September 2018</p> <p><b>2018/19 management comments</b></p> <p>The accounting policies will be reviewed again and we suggest the policies are reviewed every year in February</p> <p><b>Responsible officer:</b> Finance Manager <b>Implementation date:</b> February 2020</p>
Current status	Management response	
<b>Complete</b>	Accounting policies have been reviewed and policies which are not applicable to the Commission have been removed	

## 6. Medium to long term financial planning

Initial rating	Issue & recommendation	Management comments
<b>Grade 3</b>	<p>The Commission does not currently have a formal medium to long term financial plan forecast in place, which is not in line with standard practice. This is partly due to uncertainties surrounding further increases to the pay remit in future years, increasing the difficulty in financial forecasting.</p> <p>We would recommend that the Commission undertakes financial scenario planning for the medium to long term. This would help the Commission to demonstrate that it is identifying risks to the financial sustainability of the organisation. This will also allow the Commission to put in place steps to mitigate financial sustainability risks in a timely basis.</p>	<p><b>2017/18 management comments</b></p> <p>The Commission does have three year financial planning in place. It proved difficult to forward plan staffing costs when the outcome of the pay policy was unknown. This was approved by Board in May which will allow further scenario planning to be undertaken.</p> <p><b>Responsible officer:</b> HOCS / Finance Manager <b>Implementation date:</b> October 2018</p> <p><b>2018/19 management comments</b></p> <p>We think that this is complete, the cycle for this year is dependent on final clarification of 19/20 budget.</p>
Current status	Management response	
<b>Complete</b>	We understand that the 3 year cycle is considered appropriate by management due to the uncertainties in scope of the Commission activities as a result of the Scott Review. This aligns with the strategic planning cycle.	

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